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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,962	10/28/2003	Jeffrey H. Roffman	VTN-5034-USA-NP	4447
27777	7590	07/06/2004	EXAMINER	
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			STULTZ, JESSICA T	
			ART UNIT	PAPER NUMBER
			2873	

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,962

Applicant(s)

ROFFMAN ET AL.

Examiner

Jessica T Stultz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-12 is/are rejected.
- 7) ☒ Claim(s) 7-10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5-6, and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Volk.

Regarding claims 1 and 11-12, Volk discloses a lens, a method of making a lens (Column 12, lines 40-57, wherein the lens is shown in Figure 8), and a method of correcting presbyopia (Column 5, lines 39-53, wherein the lens corrects the refractive error of the eye based on the degree of presbyopia of the patient), including an optic zone having a first region that is a multifocal region (Column 12, line 40-Column 13, line 4, wherein the first multifocal region is intermediate region “130” of lens surface “120” which has both near and distance power, Figure 8), a second region that is a monofocal region (Column 12, line 40-Column 13, line 4, wherein the second monofocal region is distance region “122” of lens surface “120”, Figure 8), and a third region of alternating distance optical power segments and near optical power segments (Column 12, line 40-Column 13, line 4, wherein the third region includes near regions “128” and “126” alternating with distance regions “124” and “133”, wherein the intermediate region “133” has distance power at the edge adjoining the distance region “122”, Figure 8) wherein the near power segments are asymmetrical (Column 12, lines 40-57, wherein the near regions “128” and “126” are asymmetrical, Figure 8).

Regarding claim 2, Volk further discloses that the lens is a contact lens (Column 1, lines 8-20, Column 2, lines 57-60, wherein the lens is a contact lens, Figure 8).

Regarding claim 3, Volk further discloses that the first, second and third regions are located on a front surface of the lens (Figure 8, wherein the lens surface "120" is the front surface of the lens).

Regarding claim 5, Volk further discloses that the back surface is a toric surface (Column 3, lines 28-50 and Column 6, lines 41-51, wherein the front and back surfaces have areas of differing curvatures, i.e. toric surfaces).

Regarding claim 6, Volk further discloses that the back surface of the lens inversely corresponds to an individual's corneal topography (Column 15, line 60-Column 16, line 11, wherein the back surface of the contact lens conforms to the corneal surface of the eye, i.e. inversely corresponds to the individual corneal topography of the user, Figure 8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Volk in view of Roddy.

Regarding claim 4, Volk discloses a lens having a multifocal region, a monofocal region, and a region with alternating near and distance powers as disclosed above, but does not specifically disclose that the lens include a cylinder power. Roddy teaches of an ophthalmic lens

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having a multifocal region (Column 4, line 61-Column 5, line 13, wherein the lens “10” has multifocal regions comprising multiple intermediate regions “18”, Figures 1-2), a monofocal region (Column 4, line 61-Column 5, line 13, wherein the lens “10” has monofocal distance region “14”, Figures 1-2), and an asymmetric near power region (Column 4, line 61-Column 5, line 13, wherein the lens “10” has asymmetric near power region “16”, Figures 1-2), specifically wherein the lens includes a cylinder power (Column 7, line 16-Column 8, line 2, wherein the connecting wedges “20” have isocylindrical values, Figures 1-2) for the purpose of eliminating distortion and astigmatism and to produce a smooth transition between the distance and near zones (Column 2, line 61-Column 3, line 21, and Column 7, line 16-Column 8, line 2). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made for the lens of Volk to further include a cylinder power since Roddy teaches of an ophthalmic lens having a multifocal region, a monofocal region, and an asymmetric near power region specifically wherein the lens includes a cylinder power for the purpose of eliminating distortion and astigmatism and to produce a smooth transition between the distance and near zones.

Allowable Subject Matter

Claims 7-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner’s statement of reasons for allowable subject matter: none of the prior art alone or in combination disclose or teach of the claimed combination of limitations to warrant a rejection under 35 USC 102 or 103.

Specifically regarding claims 7-10, none of the prior art alone or in combination disclose or teach of a lens having a multifocal region, a monofocal region, and a region with alternating near and distance powers, wherein the near regions are asymmetric, specifically wherein the position, amplitude, width, and speed or contour of the multifocal regions satisfy the claimed equations.

Examiner's Comments

For applicant's information Roffman et al US patent 5,512,220, cited in IDS dated October 28, 2003, reads on with the current invention since it discloses a contact lens with a multifocal region, a monofocal region, and a region with alternating near and distance powers, specifically wherein the near power regions are asymmetric (see Figure 4). However, this reference was not used in the above rejections since additional rejections would be repetitious.

Conclusion

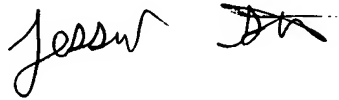
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mukaiyama et al is cited because it has some similar structure to the claimed invention since it discloses a multifocal lens wherein the near power regions are asymmetric.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica T Stultz whose telephone number is (571) 272-2339. The examiner can normally be reached on M-F 8-4:30.

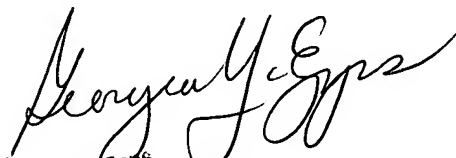
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 571-272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jessica Stultz
Patent Examiner
AU 2873
June 30, 2004



Georgia Epps
Supervisory Patent Examiner
Technology Center 2800